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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,713	12/27/2001	Zhang Shao Wei	P1395	8628

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EXAMINER	
HYLTON, ROBIN ANNETTE	

ART UNIT	PAPER NUMBER
3727	

DATE MAILED: 09/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/033,713	WEI, ZHANG SHAO	
	Examiner	Art Unit	
	Robin A. Hylton	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 June 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *32-37 and 40-50* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *32-37 and 40-50* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 32,34,43,44,46, and 48-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Perali et al. (US 4,914,762).

Perali teaches a flexible container **1** comprising at least two flexible members **2,3** forming a chamber therebetween for containing fluids, said flexible members have a modulus of elasticity conducive to liquid containment and gaseous inflation (see column 2, lines 33-35), and flexible closure means **7** coupled to at least one of said flexible members, having a hollow cylinder having an open end and a sealed end, said sealed end extending into the chamber for selective flow restriction and for repetitive filling and expelling fluids from said chamber in response to squeezing force selectively applied to said closure means, said closure means further including a stopper means for sealing said open end of said hollow cylinder. Water (column 2, lines 34-35) is a liquid cleanser.

Regarding the slit of figures 48 and 49, Perali teaches the valve can be any of the valves known in the art. A valve having a transfigurable slit disposed near the sealed end of the hollow cylinder is known in the art and was known at the time of the instant invention.

Regarding claims 43,44, and 46, the bag is of a recognizable geometric shape, i.e., rectangular.

Regarding claim 50, liquid soap is an example of a liquid used to inflate the cushion (col.2, line 34).

Claim Rejections - 35 USC § 103

3. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perali.

Wherein Perali teaches a liquid can be used to inflate the cushion (col. 2, line 34), it would have been obvious to one of ordinary skill in the art at the time the invention was made to use liquid soap to fill the cushion. Doing so allows for the cushion to be used to holding a liquid product such as liquid soap.

4. Claims 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perali in view of Marrone, II (US 5,007,449).

Wherein it can be argued Perali does not teach a valve having transfigurable slit disposed near the sealed end of the hollow cylinder, Perali is silent regarding the structure.

Marrone teaches a flexible container having a closure means having a hollow cylinder having a open end and a sealed end, said sealed end extending into the chamber, and a transfigurable slit disposed near the sealed end for selective flow restriction and for repetitive filling and expelling fluids from said chamber in response to squeezing force selectively applied to said closure means, said closure means further including a stopper means for sealing said open end of said hollow cylinder with a transfigurable slit **4** disposed near the sealed end **5**.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a transfigurable slit disposed near the sealed end of a hollow cylinder. Doing so prevents deflating of the container or loss of contents should the cap be removed accidentally or intentionally wherein no pressure is applied to the valve.

5. Claims 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 32 and 34 above, and further in view of Gewecke (US 3,368,560).

Perali as modified teaches the claimed flexible container except for a hanger on the flexible container.

Gewecke teaches a flexible container having a means for hanging the container attached to one of the flexible members.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further provide a hanging means to the modified container of Perali as taught by Gewecke. Doing so allows for conveniently hanging the container for display and/or drying by allowing excess fluid to drain toward the closure means.

6. Claims 36-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 32 and 34 above, and further in view of Canonica, Jr. (US 3,139,956).

Perali as modified teaches the claimed flexible container except for an insert in the container.

Canonica teaches it is known to provide a transparent container with an insert.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the container of Perali to provide an insert in the container chamber. Doing so provides an entertaining and enjoyable feature to the bag.

7. Claims 45 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perali.

With respect to animal and flower shapes, Perali is silent to the bag having these shapes.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the bag of Perali animal shape or flower shaped since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

8. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perali.

Perali teaches the claimed bag except for a liquid emulsifier contained in the bag chamber.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to fill the chamber with an emulsifier since the examiner takes Official Notice of the equivalence of water and liquid emulsifier for their use in the art and the selection of any of these known equivalents to use a liquid cleanser would be within the level of ordinary skill in the art.

Response to Arguments

9. Applicant's arguments filed June 28, 2006 have been fully considered but they are not persuasive.

Applicant argues Perali teaches only the use of water as a liquid for inflating the bag. Additionally, the assertion is that water is not a liquid cleanser.

Applicant's attention is directed to column 2, lines 34 -35 of Perali which reads in part... "or by filling it with a liquid, e.g. water". It should be noted that "e.g." is the Latin abbreviation meaning "for example". It does not limit the citation listed after it to be the only possibility. Thus, **any** liquid including, but not limited to, water can be used to inflate the bag of Perali.

In response to applicant's argument that the combination of Perali and Marrone as well as the other subsequent combinations do not teach or suggest the cushion can be used for any other purpose, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the instant case, the teaching of filling the cushion with "a liquid" inherently teaches the bag can be used for other purposes.

With regard to the rejection of claims 36-41, it is agreed there is no teaching or suggestion to include "a marine display contained with a glass-type tank". The rejection does not set forth "any features of a marine display contained with a glass-type tank". Rather, the

rejection sets forth that an object can be placed inside of the bag of Perali for aesthetic purposes.

Regarding applicant's statement of commercial success, this is not convincing of patentability of the claimed invention. There is no data or other evidence presented to support applicant's claim of commercial success.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any

amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

13. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature_____

Date_____

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have

questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page http:www.uspto.gov

RAH
August 31, 2006

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GAU 3727